

**MINUTES OF THE MEETING  
OF THE BOARD OF  
RESPIRATORY CARE PRACTICE**

**November 10, 2005**

**CALL TO ORDER**

Marcia Wyrens, Chairperson, called the meeting of the Board of Respiratory Care Practice to order at 9:08 a.m. Thursday, November 10, 2005, in Conference Room LL-C at the State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The meeting was duly publicized by distribution of the Notice of Meeting Agenda 10 days prior to the meeting.

**Roll Call**

The following Board members, HHSS Staff, and visitors were present at the meeting:

Marcia Wyrens, Chairperson  
Bruce Couillard, Vice Chair  
Kay Lavene, Secretary

Diane Hansmeyer, Section Administrator  
Delores James, Credentialing Coordinator  
Mike Grutch, Program Manager  
Loretta Bennett, Investigations  
Brad Shaff, Assistant Attorney General  
Dennis Janes, Licensed Respiratory Therapist

Absent: Lon Keim, M.D.

**Adoption of the Agenda**

Couillard moved, seconded by Lavene, to adopt the agenda as presented. Voting aye: Wyrens, Couillard and Lavene. Voting nay: None. Absent and not voting: Keim. Motion carried.

**Approval of Minutes**

Couillard moved, seconded by Lavene, to approve the minutes for the December 17, 2004 and July 1, 2005 board meeting and conference call. Voting aye: Couillard, Lavene and Wyrens. Voting nay: None. Absent and not voting: Keim. Motion carried.

Marcia Wyrens was presented a plaque from the State of Nebraska in appreciation for her service to the state.

Wyrens and Janes left the meeting at 9:10 a.m.

**INVESTIGATIONAL REPORT(S)**

**LICENSURE APPLICATIONS (Closed Session)**

Lavene moved, seconded by Couillard, to go into closed session at 9:10 a.m. for the purpose of discussing investigational reports and to protect the reputation of individuals. Voting aye: Lavene, Wyrens and Couillard. Voting nay: None. Absent and not voting: Keim. Motion carried.

**Out of Closed Session**

Wyrens moved, seconded by Lavene, to come out of closed session at 9:50 a.m. Voting aye: Wyrens, Couillard and Lavene. Voting nay: None. Absent and not voting: Keim. Motion carried.

Wyrens re-entered the meeting at 9:30 a.m.

Bennett left the meeting at 9:30 a.m.

Janes re-entered the meeting at 9:50 a.m.

**LICENSURE REINSTATEMENT**

Wyrens moved, seconded by Couillard, to approve licensure reinstatement for Belinda Graybill. Voting aye: Couillard, Lavene and Wyrens. Voting nay: None. Absent and not voting: Keim. Motion carried.

**NON LICENSED INDIVIDUALS PROVIDING RESPIRATORY CARE**

Dennis Janes spoke to the Board about non licensed individuals providing respiratory care. He stated that he has been a respiratory therapist since 1970 and has been involved in home care and the hospitals. He noticed for the past few years that unlicensed individuals have been providing respiratory care in home care settings and are doing so without the direction of a medical director. He presented some documentation on this issue to the Board and asked for their guidance in what could be done about this situation. The Board agreed to review the information and seek guidance from the Department.

Break 10:40 a.m.

Reconvened at 11:00 a.m.

**UNIFORM LICENSURE LAW (Attachment A)**

**Rewrite Revision**

Hansmeyer discussed the proposed changes to the Uniform Licensing Law rewrite, (Referred to as REQ 0138) and the summary of changes. She stated that the summary information does not contain all of the changes to the proposed bill. The summary is designed to give the Board major changes to review and to give feedback before REQ 0138 is finalized.

The following changes will take place in the Uniform Licensing Law rewrite:

The name of this document will be changed to the Uniform Credentialing Act because certification and registration are covered as well. The definitions for these three forms of credentials are found on pages 7, 9 and 10 of REQ 0138.

Page 3 lists all of the practice acts that are covered in the REQ 0138. What that means is that these are the acts within this act.

Hansmeyer reviewed the following changes, which are found on the summary sheets that provide information of why the changes are necessary and where they can be found in the REQ 0138 document:

Initial License - Gives the boards more authority, it changes the current wording: "Board approves or the board adopts the regulations." The board will approve requirements for licensure such as; the education the person has to have, what examination they have to pass, if they have to have experience and if so what type of experience, the passing score they have to meet in order to pass the examination, and approval of schools/training. The current language states that the Department with the approval or the recommendation of the board. What is meant by current language is that the Department and the board would have to agree and if they did not the change would not take place.

Section 55 page 61 gives a definition of the purpose of each board.

Section 68, page 77 gives information on the Department's role of being responsible for the general administration of the activities of each of the boards.

Section 45, page 46 identifies that the cost of operation of the board should be paid from the Professional and Occupational Credentialing Cash Fund and General Fund. The statement on General Fund is for Emergency Medical Services because they do not pay fees because they are volunteers.

Section 45 page 46 - The reinstatement language is crosshatched. It was changed, but the boards like the current language. Therefore, the original language will remain in this section.

**Renewal:** Biennial renewal is not a change and it appears on the summary because all of the practice acts have been added to the UCA for consistency purpose.

The 2<sup>nd</sup> part is that licenses will no longer be revoked for non-payment of fees, they will just expire. Licensees did not like the term revocation because it will be on their record permanently and appears that the license was revoked for disciplinary reasons.

Hansmeyer stated that research was done to find out what other states are doing and they found out that other states were not revoking licenses for this reason.

The 30-day grace period will be eliminated because it confuses licensees. It makes them think that they can continue to practice until the grace period is over. When the truth is that the only thing that the grace period allowed is for licensees to pay the licensure fees. Reinstatement does the same thing.

Eliminated the inactive fee, but not inactive status. Individuals can choose inactive status at the time of renewal and not have to pay a fee. The reason for this change is that the fee wasn't necessary because there is no extra work involved in this process and it is the belief that fees should be paid to support cost and if there is no cost, then there should not be a fee charged.

Reinstatement will not change, except for people who were disciplined. If their license was revoked for disciplinary reasons they could reapply for reinstatement after two years.

**Endorsement and Reciprocity:** Reciprocity in Nebraska does not mean true reciprocity. The word reciprocity means that if a person has a license in one state they can get a license in another state based upon that license. The term, which will appear in REQ is endorsement. It also eliminated the requirement to have practiced at least one year out of the last three.

Hansmeyer gave the Board new language to review for possible addition to the Respiratory Care Practice Act. She stated that this language would eliminate a loophole, which she feels is currently in the practice act (Attachment A1). C (1) is when a person gets their initial license and number 2, is when they are licensed in another state.

She gave an example of a person who passed the examination and finished their educational requirements. This person met the requirements for licensure, but they had not practiced in Nebraska for some reason and now they want to get a license. As the language is currently written, the State of Nebraska would have to give them a license.

The new language would give the Board the right to consider competency and if the Board feels that someone who hasn't practice for five years isn't competent, then this Would allow the Board to write regulations, which would include competency requirements.

Number 2 is written for a person coming from another state/jurisdiction and also requires that continuing competency be met after a 3 years period of licensure inactivity.

Hansmeyer reviewed information on the Board's Role, which gives the board the authority to adopt regulations without the Department's approval for initial licensure standards, renewal standards, passing score, course of study, defining unprofessional conduct and sending applications for reinstatement

Number 2 under Board Role can be found in Section 31 on page 23 and this is where the board recommends to the Department on licensure and other administra-

tive areas, the security of the examination, issuance and denial of licensure, and administration of the examination.

**Board Expenses:** the new requirements will provide a per diem to board members for up to \$50.00 per day and the Board can also give a per diem to people serving on advisory committees.

**Board Composition:** The ULL rewrite requires an additional public member for boards with less than eleven members.

Hansmeyer will eliminate and one shall be an occupational therapy assistant.

### **Practice Act Changes**

Hansmeyer explained the changes to the Respiratory Care Practice Act, which are found on the summary.

Hansmeyer stated that the Department wants to ask each board how they feel about the changes and if they could support the proposed changes in ULL as well as in the practice act. If not, the Department would like to address concerns before this bill is taken to the legislature.

Wyrens stated that in Section 71-1,233, certified respiratory therapy technician of registered respiratory therapist examinations do not exist anymore. Hansmeyer explained the reason for keeping this language and that is, if someone took the examination prior to July 17, 1986 they could still get a license.

Hansmeyer asked the Board to look at Section 71-1,231 for language that is current regarding the examination.

Break 10:40 a.m.

Reconvened at 10:55 a.m.

Hansmeyer will amend section 71-1, 231 to reflect the current name of the accrediting body. She will delete the reference to the American Medical Association and put program accredited by the Commission on Accreditation of Allied Health Programs in collaboration with the Committee on Accreditation for Respiratory Care.

Couillard moved, seconded by Wyrens, to approve the changes to the Uniform Licensing Law and the Practice Act. Voting aye: Wyrens, Couillard and Lavene. Voting nay: None. Absent and not voting: Keim. Motion passed.

### **ADOPTION OF CONVICTION GUIDELINES**

#### **Conviction Guidelines (Attachment B)**

Wyrens moved, seconded by Lavene, to adopt the conviction guidelines and add “**prior to board determining terms and conditions**” under “**Refer applicant to LAP for evaluation**”,

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which can be found in several places under the board recommends column. Voting aye: Couillard, Lavene and Wyrens. Voting nay: None. Absent and not voting: Keim. Motion passed.

### **REGISTERED RESPIRATORY THERAPIST EXAMINATION (Attachment C)**

Wyrens reviewed a letter from the National Board for Respiratory Care, Inc. regarding changes to the policies for the respiratory care credentialing examinations. The changes are as follows:

Effective January 1, 2005 individual will have three years after graduation to pass both parts of the RRT Examination

Individuals in the examination system before January 1, 2005, either having already graduated, already holding the CRT credential or having passed one part of the RRT examination will have three years from January 1, 2005 to achieve the RRT credential.

Individuals who do not complete the RRT Examination within the three-year time limit will be required to retake and pass the CRT Examination for recredentialing to again be eligible for the RRT Examination.

Being recredentialed as a CRT will allow the individual an additional three years to pass the RRT Examination.

Beginning January 1, 2006, all candidates must have an associate degree or higher for an accredited respiratory therapy education program to be eligible for the CRT and RRT Examinations.

### **ATTORNEY GENERAL'S OPINION (Attachment D)**

#### **OXYGEN AND RESPIRATORY CARE**

The Board reviewed an Attorney General's opinion on scope of practice of respiratory care. This opinion was written on February 10, 1989 in response to a request for information on a specific list of tasks that an individual who is not licensed as a respiratory care practitioner can perform.

The AG's opinion was reviewed in order to answer Mary Bunger's request for information on who is allowed to change tubing from wall oxygen to a portable unit should the patient need to go to another department for treatment or therapy (Attachment E).

After discussion Couillard moved, seconded by Wyrens, that oxygen is a medication, therefore, licensed professionals for whom oxygen therapy is not part of their scope of practice and unlicensed staff is not allowed to initiate, adjust rate, disconnect or reconnect oxygen except in an emergency. Voting aye: Lavene, Wyrens and Couillard. Voting nay: None. Absent and not voting: Keim. Motion passed.

A response will be sent to Mary Bunger.

### **SCOPE OF PRACTICE**

Low Level Light Therapy Used for Smoking Cessation and Weight Loss

Hansmeyer stated that Christine Flexbeard asked to speak to the board on low level light therapy and was to have sent information for them to review. Since the information did not arrive in time for the board meeting this issue will be addressed at the next meeting.

### **OLD BUSINESS**

There was no old business.

### **NEW BUSINESS**

#### **Reaffirmation of Mail Ballots**

Lavene moved, seconded by Couillard, to re-affirm the mail ballots (Attachment F). Voting aye: Wyrens, Couillard and Lavene. Voting Nay: None. Absent and not voting: Keim. Motion carried.

#### **LAP Report (Attachment G)**

Hansmeyer gave the Board a first quarter LAP report, which includes statistical information from the period of July 1, through September 30, 2005. This report was given for informational purposes only.

#### **Board of Health Information**

##### **Board of Health Web-Site**

Hansmeyer gave the Board information on how to access the Board of Health's web-site in order to get information on the activities of the board.

#### **Mission and Objectives of the Cred. Div.**

##### **Mission and Objectives of the Credentialing Division (Attachment H)**

Hansmeyer updated the Board on the missions and objectives of the Credentialing Division. She discussed the outcomes and measures for consumers, licensees, licensing boards, contractors, private or governmental agencies, provider associations, and federations and councils.

Hansmeyer stated that a survey is being developed and would be sent to the Board. The focus of the survey is; "Does the Credentialing Division provide you with the tools necessary to do your job as a board member?"

## **MISCELLANEOUS**

### **PREP Opportunity 2006 Board Meetings (Attachment I)**

The Board received information on the Nebraska Periodic Regulatory Evaluation Process (PREP) that explains that PREP is designed for the periodic review of the regulatory system of health professions and occupations that are currently credentialed by the Department of Health and Human Services Regulation and Licensure.

Wyrens moved, seconded by Couillard, that the Respiratory Care Practice Board participate in the study. Voting aye: Couillard, Lavene and Wyrens. Voting Nay: None. Keim, absent and not voting. Motion carried.

### **Janes left the meeting at 12:35 P.M.**

### **Closed Session**

Couillard moved, seconded by Wyrens, to go into closed session at 12:35 p.m. for the purpose of discussing investigational information and to protect the reputation of individuals. Voting aye: Lavene, Wyrens and Couillard. Voting Nay: None. Absent and not voting: Keim. Motion carried.

### **Out of Closed Session**

Couillard moved, seconded by Wyrens, to come out of closed session at 1:00 p.m. Voting aye: Wyrens, Couillard and Lavene. Voting Nay: None. Absent and not voting: Keim. Motion carried.

Janes was invited into closed session at 12:50 p.m.

## **ADJOURNMENT**

There being no further business, the meeting was adjourned at 1:05 p.m.

Respectfully submitted,

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Kay Lavene, Secretary